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RENNER OTTO BOISSELLE & SKLAR, LLP  
1621 EUCLID AVENUE  
NINETEENTH FLOOR  
CLEVELAND, OH 44115

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**JAN 18 2005**

**OFFICE OF PETITIONS**

In re Application of :  
Scott R. Gilbert :  
Application No. 09/876,799 :  
Filed: June 7, 2001 :  
Attorney Docket No. AROOP9909USA :

**ON PETITION**

This is a decision on the petition under 37 CFR 1.137(b), filed January 12, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed April 9, 2003, which set a shortened statutory period for reply of three (3) months. A three-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. On November 4, 2003, the USPTO mailed a Notice of Improper Request for Continued Prosecution Application (RCE) stating that the request was not accompanied by a submission as required by 37 CFR 1.114. Accordingly, the application became abandoned on October 10, 2003.

Since the filing of the RCE on October 16, 2003 (Certificate of Mailing dated October 9, 2003) was improper, as noted above, the \$385 filing fee submitted is unnecessary. Accordingly, as authorized, the \$385 filing fee submitted for the RCE will be credited to Deposit Account No. 18-0988.

Receipt is acknowledged of the Amendment filed January 12, 2004, with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being forwarded to Technology Center 3600, Art Unit 3643 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Retta Williams  
Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy

**UNITED STATES PATENT & TRADEMARK OFFICE**  
Washington, D.C. 20231

| REQUEST FOR PATENT FEE REFUND                         |  |   |              |          |   |   |    |   |   |   |   |
|---|--|---|--------------|----------|---|---|----|---|---|---|---|
| 1 Date of Request: <u>1-18-05</u>                     |  | 2 Serial/Patent # <u>09/876,199</u>   |              |          |   |   |    |   |   |   |   |
| 3 Please refund the following fee(s):                 |  | 4 PAPER NUMBER  | 5 DATE FILED | 6 AMOUNT |   |   |    |   |   |   |   |
|   | Filing   |   |              | \$       |   |   |    |   |   |   |   |
|   | Amendment  |   |              | \$       |   |   |    |   |   |   |   |
|   | Extension of Time                                    |   |              | \$       |   |   |    |   |   |   |   |
|   | Notice of Appeal/Appeal                              |   |              | \$       |   |   |    |   |   |   |   |
|   | Petition   |   |              | \$       |   |   |    |   |   |   |   |
|   | Issue  |   |              | \$       |   |   |    |   |   |   |   |
|   | Cert of Correction/Terminal Disc.                    |   |              | \$       |   |   |    |   |   |   |   |
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|   | Assignment   |   |              | \$       |   |   |    |   |   |   |   |
| <input checked="" type="checkbox"/>                   | Other <u>RCE</u>                                     |   | 10-16-03     | \$ 385.- |   |   |    |   |   |   |   |
| 7 TOTAL AMOUNT OF REFUND                              |  |   | \$ 385       |          |   |   |    |   |   |   |   |
| 8 TO BE REFUNDED BY:                                  |  |   |              |          |   |   |    |   |   |   |   |
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|   | Overpayment  | <input checked="" type="checkbox"/> Credit Deposit A/C #:   |              |          |   |   |    |   |   |   |   |
|   | Duplicate Payment                                    | 9 <table border="1" style="display: inline-table; text-align: center; width: 150px;"><tr><td>1</td><td>8</td><td>--</td><td>0</td><td>9</td><td>8</td><td>8</td></tr></table> |              |          | 1 | 8 | -- | 0 | 9 | 8 | 8 |
| 1   | 8  | --  | 0            | 9        | 8 | 8 |    |   |   |   |   |
| <input checked="" type="checkbox"/>                   | No Fee Due (Explanation):<br><u>RCE was improper</u> |   |              |          |   |   |    |   |   |   |   |
|   |  |   |              |          |   |   |    |   |   |   |   |
| 11 REFUND REQUESTED BY:                               |  |   |              |          |   |   |    |   |   |   |   |
| TYPED/PRINTED NAME: <u>Retta Williams</u>             |  | TITLE: <u>Paralegal</u>   |              |          |   |   |    |   |   |   |   |
| SIGNATURE: <u>Retta Williams</u>                      |  | PHONE: <u>272-3229</u>  |              |          |   |   |    |   |   |   |   |
| OFFICE: <u>Petitions</u>                              |  |   |              |          |   |   |    |   |   |   |   |
| ***** THIS SPACE RESERVED FOR FINANCE USE ONLY: ***** |  |   |              |          |   |   |    |   |   |   |   |
| APPROVED: <u>Alicia Kelley</u>                        |  | DATE: <u>1/18/05</u>  |              |          |   |   |    |   |   |   |   |

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